

DEPARTMENT OF AGING

1300 National Drive Suite200

Sacramento, CA 95834-1992

Internet Home Page: www.aging.ca.gov

TDD Only 1-800-735-2929

FAX Only (916) 928-2268

Main Office (916) 419-7500



PROGRAM MEMO

TO: AREA AGENCY ON AGING DIRECTORS LONG-TERM CARE OMBUDSMAN PROGRAM COORDINATORS	NO.: PM-07-12(P)
SUBJECT: Long-Term Care Ombudsman Background Clearance Requirement	DATE ISSUED: 06/08/2007
REVISED	EXPIRES: Until Superseded
REFERENCES: Welfare & Institutions Code Section 9719	SUPERSEDES: N/A
PROGRAMS AFFECTED: <input type="checkbox"/> All <input checked="" type="checkbox"/> Title III-B <input type="checkbox"/> Title III-C1/C2 <input type="checkbox"/> Title III-D <input type="checkbox"/> Title III-E <input type="checkbox"/> Title V <input type="checkbox"/> CBSP <input type="checkbox"/> MSSP <input checked="" type="checkbox"/> Title VII <input type="checkbox"/> ADHC <input type="checkbox"/> Other: _____	
REASON FOR PROGRAM MEMO: <input checked="" type="checkbox"/> Change in Law or Regulation <input type="checkbox"/> Response to Inquiry <input type="checkbox"/> Other Specify:	
INQUIRIES SHOULD BE DIRECTED TO: Jana Matal, Ombudsman Program Manager, or Leah Mohny, Ombudsman Program Consultant at (916) 419-7510	

Overview of the Background Clearance Process

Effective July 1, 2007, SB 1759 (Ashburn, Chapter 902, Statutes of 2006) requires existing and prospective Long-Term Care (LTC) Ombudsman staff and volunteers to be fingerprinted and to undergo background clearances prior to certification as a LTC Ombudsman. See Attachment 1, Welfare and Institutions Code Section 9719 to review the new law.

The Office of the State Long-Term Care Ombudsman (OSLTCO) will notify local Ombudsman Programs when to send Ombudsman staff and volunteers to have Live Scan fingerprinting done. We will attempt to begin fingerprinting July 1, 2007. However, the start date is dependent upon the execution of necessary contracts and the passage and signing of the State budget. The OSLTCO will notify Area Agencies on Aging (AAAs) and local Ombudsman Programs of the official start date.

Live Scan sites will send fingerprints to the Department of Justice (DOJ) electronically. DOJ forwards a request to the Federal Bureau of Investigation (FBI) to run national criminal history records for applicants. The DOJ will send results of DOJ and FBI records to the Department of Social Services (DSS), Community Care Licensing Division (CCLD), Caregiver Background Check Bureau (CBCB).

DSS staff will analyze the records and determine if the applicant is approved, denied or must submit additional documents to receive a criminal record exemption. DSS will notify OSLTCO staff of their determinations. DSS will also notify the OSLTCO if an Ombudsman

representative subsequently commits a crime. OSLTCO staff will notify local Ombudsman Programs regarding the status of their existing Ombudsman representatives and new applicants.

This process will be a positive step for the LTC Ombudsman Program because it will provide additional levels of protection for residents of LTC facilities and a greater sense of security and comfort for them by ensuring that Ombudsman representatives have not committed serious and violent crimes.

Please be aware that the OSLTCO does not anticipate many denials of Ombudsman representatives. People who become Ombudsman staff and volunteers work in the program because they want to make a difference. As we implement this program, it will be important for Ombudsman Program Coordinators to communicate how much we value our staff and volunteers and that this process is not personal, nor a reflection of a problem within the Program.

Funding and AAA Logistics

The FY 07/08 Governor's Budget proposes an augmentation of \$68,000 for local assistance funding for fingerprinting activities. The Budget also proposes \$21,000 for FY 08/09 and ongoing. The OSLTCO bases this allocation to AAAs on the Ombudsman Funding Formula (Attachment 2). The allocation is included in the Ombudsman General Fund Title VII-A section of the planning estimate.

If approved in the State budget, AAAs will receive State General funds to pay for the fingerprinting. AAAs will make this funding available to Ombudsman Programs that will coordinate the fingerprinting of their existing and prospective Ombudsman staff and volunteers. In most cases, the cost of Live Scan fingerprinting is under \$25. Programs can use State General Fund or Federal Citation Penalty funds if local Ombudsman Programs overspend and need additional funding to pay for fingerprinting. Programs may not use Federal Older Americans Act funds. If Programs do not spend all funds for fingerprinting, they may use the funds for other purposes within the State General fund.

Local Ombudsman Programs will not pay for background clearances, only fingerprinting. The OSLTCO will contract with DSS to analyze and process the criminal history records, and pay for the DOJ and FBI criminal history reports.

Local Ombudsman Program Logistics

1. Local Ombudsman Programs need to contact nearby Live Scan site(s) to arrange for fingerprinting, to obtain forms, and to determine the preferred method of payment. Local Programs must establish payment methods to pay Live Scan sites for fingerprinting charges or reimbursement methods to repay applicants who pay for fingerprinting fees. Ombudsman Programs must use established accounting processes to reimburse applicants who pay Live Scan sites for fingerprinting.

Many Live Scan sites only accept cash. Some accept checks, credit cards or money orders. Coordinators should inquire about reduced fees for volunteers, as some sites may waive fees or offer discounts for volunteers. Many Live Scan sites have mobile services that can come to the local Ombudsman Program's office to fingerprint groups of people. Programs should establish fingerprinting arrangements and payment/reimbursement with Live Scan locations by June 30, 2007.

Programs can view a list of all statewide Live Scan sites and the cost of Live Scan fingerprinting at each location at the following Internet link:

<http://ag.ca.gov/fingerprints/publications/contact.php>

2. As part of the background clearance process, each applicant, including all existing Ombudsman staff and volunteers, must complete an LIC 508, Criminal Record Statement (Attachment 3), which discloses any previous criminal convictions. Giving false or incomplete information on the LIC 508 is sufficient cause to disqualify an applicant. All new applicants will submit this form to the Program Coordinator or his/her designee at the same time as the regular application. Before going to a Live Scan site for fingerprinting, all existing staff and volunteers will complete the form and submit it to Program Coordinators. Program staff must treat the LIC 508 as a confidential document. DSS will customize this form for the Ombudsman Program, and local Programs will receive a revised form and further instructions prior to implementation.

Programs must mail all completed LIC 508s in an envelope marked "Confidential" to DSS CBCB no later than the 10th of each month. Local Ombudsman Programs will be sent the DSS address when the revised form is complete. In the event of an exemption request, DSS will retain these forms to process a criminal record exemption.

3. The OSLTCO will provide Coordinators a Request for Live Scan form that they must give each applicant. (See Attachment 4) The only fields that need to be completed are the fields in the section beginning with the Name of Applicant through the Home Address Information. The section labeled Your Number identifies the PSA. **If the application is for a staff member, add an "S" after the PSA number.** If the application is for a volunteer, do not add anything to the PSA number. For example, a staff person from PSA 19, Region 3 would be listed as PSA 19 3 S.

4. Programs should update job applications for volunteers and staff to include a statement that informs all candidates that they must undergo a background clearance before certification as an Ombudsman. See Attachment 5 for the Notice of Criminal Background Clearance Requirement form that needs to be included with the application forms. Update these forms no later than June 30, 2007 or use this form as an attachment to your existing application.

5. After the OSLTCO notifies Programs to begin fingerprinting, every existing Ombudsman and all new applicants must go to a Live Scan site and have his/her fingerprints scanned and sent to DOJ. All previously fingerprinted Ombudsman staff and representatives will be

fingerprinted again to ensure that evaluation of records meets the requirements of the new law and that any subsequent criminal records will be available to DSS. Programs will need to notify current and prospective Ombudsman staff and volunteers of the new background clearance requirement.

The OSLTCO recommends that Programs send trainees for Live Scan fingerprinting within the last few days of training and prior to beginning internship. Background clearances should occur before an individual completes the internship. Normally notification of cleared records will occur within two weeks after the fingerprinting occurs. All existing staff and volunteers must be fingerprinted and receive a background clearance notice prior to January 31, 2008.

6. Local Programs must send an e-mail to OSLTCO at stateomb@aging.ca.gov containing the Monthly Fingerprint Reporting Form (Attachment 6) by the 10th of each month. OSLTCO staff needs the names of individuals who were sent to have Live Scan fingerprinting completed. The form includes the PSA number, name of individuals, dates of birth, and dates of the Live Scan. Submit the first list by the 10th of the month after the OSLTCO notifies local Programs to begin sending Ombudsman representatives for fingerprinting. The OSLTCO requires this report to cross-reference the names from your list with the names DSS provides to verify that payment records for the background clearances are complete and accurate.

7. The OSLTCO will send revised Ombudsman Certification Forms via e-mail to local Ombudsman Programs prior to June 30, 2007. The new forms will include a statement regarding the background clearance requirement. OSLTCO will also e-mail Criminal Record Statements (LIC 508), the Notice of Criminal Background Requirement to attach to the application, Requests for Live Scan forms, and Monthly Fingerprint Reporting Forms to local Programs by June 30, 2007.

Processing of Criminal History Records

When the individual submits to the Live Scan fingerprinting at a local law enforcement agency or other Live Scan location, the site sends the fingerprints electronically to DOJ. DOJ identifies criminal history records from DOJ and FBI records. If there is no criminal history, DOJ will post the cleared names on the DSS CCLD website. If a criminal history exists, DOJ will send the criminal history results to DSS. DSS staff will analyze the records with established criteria to meet the law's requirements. DSS will notify the applicant and the OSLTCO of the background clearance determination or the request for additional information to process an exemption request.

An employee at the OSLTCO will monitor the approvals, denials, and requests for criminal history exemptions from DSS and notify local Ombudsman Program Coordinators immediately upon receiving determinations from DSS. An applicant may submit the exemption request documents directly to DSS or request the OSLTCO to assist him or her by forwarding the documents to DSS. Unless an applicant provides the exemption request documents to the OSLTCO for review, OSLTCO staff will not see or review any criminal history information. The OSLTCO expects that approvals and immediate denials for crimes that are non-exempt will take approximately two weeks.

There may be allowances for individuals who have committed less serious offenses to request a criminal history exemption. The individual will be able to submit additional information to DSS for review and possible approval. If an individual requests an exemption, it could take two to three months after submission of the information for the investigation to determine if an approval or denial will occur. Staff from the OSLTCO will provide input to DSS regarding exemptions when possible. See Attachment 7 for information on DSS processing of records when a criminal history exists.

Original Signed By:

Lynn Daucher
Director

Attachments